

ORIGINAL

EVWR-1

214475

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34738 (Sub-No. 1)

AUG 3 2005

RECEIVED

EVANSVILLE WESTERN RAILWAY, INC.
—ACQUISITION AND OPERATION EXEMPTION—
PADUCAH & LOUISVILLE RAILWAY, INC.

VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1150.31., *ET SEQ.*

FILED

AUG 03 2005

SURFACE
TRANSPORTATION BOARD

ENTERED
Office of Proceedings

AUG 03 2005

Part of
Public Record

FEE RECEIVED

AUG 03 2005

SURFACE
TRANSPORTATION BOARD

J. Thomas Garrett
Executive Vice President and General Counsel
Evansville Western Railway, Inc.
The Nemours Building
Suite 1414
1007 Orange Street
Wilmington, DE 19801
Phone: (270) 444-4430
Facsimile: (270) 444-4388

William A. Mullins
David C. Reeves
Baker & Miller PLLC
2401 Pennsylvania Avenue, NW
Suite 300
Washington, DC 20037
Phone: (202) 663-7820
Facsimile: (202) 663-7849

Attorneys for Evansville Western Railway, Inc.

August 3, 2005

BEFORE THE
SURFACE TRANSPORTATION BOARD

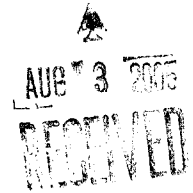
Finance Docket No. 34738 (Sub-No. 1)

EVANSVILLE WESTERN RAILWAY, INC.
—ACQUISITION AND OPERATION EXEMPTION—
PADUCAH & LOUISVILLE RAILWAY, INC.

VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1150.31., *ET SEQ.*

Evansville Western Railway, Inc. ("EVWR"), a noncarrier, files this Notice of Exemption, pursuant to 49 C.F.R. Part 1150, Subpart D – Exempt Transactions, with the Surface Transportation Board (the "Board") to permit EVWR to operate and acquire from the Paducah & Louisville Railway, Inc. ("PAL"), by purchase of track, ties and other materials (the "Improvements") and by taking assignment of a lease in the real property underlying the right-of-way (the "Real Property") the following line: approximately 124.5 miles of PAL's rail line between Evansville, IN, milepost OOH-324.0, and Okawville, IL, milepost OOH-445.7, including the Mt. Vernon Branch between milepost OZJ-300 and milepost OZJ-302.8 (the "Line"). In a related transaction, PAL will purchase the Improvements and will lease the Real Property from CSX Transportation, Inc. ("CSXT"). PAL will then immediately sell the Improvements to EVWR and assign its lease of the Real Property to EVWR.

As explained in greater detail in the concurrently filed and directly related application in Finance Docket No. 34738, *Paducah & Louisville Railway, Inc.—Acquisition—CSX Transportation, Inc.*, ("Application") EVWR has been created to permit PAL to retain certain tax advantages available to it as a Kentucky railroad that PAL would lose if it were to operate a



of the Commonwealth of Kentucky and to protect the independence of PAL from other potential liabilities and risks associated with operating a railroad outside of Kentucky.

As set forth in the Application, EVWR expects to have its own employees. EVWR plans to utilize three management and 19 non-management employees. EVWR plans to have five locomotive engineers, five trainmen, five maintenance- of -way employees, two signal and communication employees, and two mechanical employees. PAL may provide administrative support for EVWR with PAL employees pursuant to the Management and Administrative Services Agreement between PAL and EVWR.

PAL has a largely unionized work force. Eight national unions represent PAL's contract employees. EVWR contemplates that, to the extent that EVWR has employees that perform the same or similar functions as the crafts or classes of PAL employees, EVWR's employees will also be represented by these labor organizations, and EVWR will be party to collective bargaining agreements to be negotiated with such organizations.

To the extent that EVWR does not have employees at the time it plans to commence operations over the Line, it may contract with PAL, pursuant to the Management and Administrative Services Agreement, to provide such employees until such time that EVWR has its own employees.

In support of this Notice of Exemption, EVWR submits the following information as required by 49 C.F.R. § 1150.33:

a. Full name and address of applicant:

Evansville Western Railway, Inc.
The Nemours Building
Suite 1414
1007 Orange Street
Wilmington, DE 19801

b. Applicant's Representatives:

J. Thomas Garrett

Executive Vice President and General Counsel

Evansville Western Railway, Inc.

The Nemours Building

Suite 1414

1007 Orange Street

Wilmington, DE 19801

Phone: (270) 444-4430

Facsimile: (270) 444-4388

William A. Mullins

David C. Reeves

Baker & Miller PLLC

2401 Pennsylvania Avenue, NW

Suite 300

Washington, DC 20037

Phone: (202) 663-7820

Facsimile: (202) 663-7849

c. An agreement will be reached between EVWR and PAL that will govern EVWR's purchase of the Improvements and the assignment of PAL's Real Property lease to EVWR.

d. The operator of the property will be EVWR.

e. Summary of proposed transaction:

1. The name and address of the railroad transferring the property is:

Paducah & Louisville Railway, Inc.

1500 Kentucky Avenue

Paducah, KY 42003-2893

2. The proposed time schedule for the consummation of the transaction.

The proposed time schedule for consummation of the transaction is the later of December 30, 2005 or as soon as possible after PAL's Application to acquire the Line from CSXT is approved.

3. The mileposts of the subject property, including any branch lines.

EVWR will purchase the track, ties, and other track material and take assignment of PAL's lease of the real property, which together comprise CSXT's existing rail line between Evansville, IN, milepost OOH-324.0, and Okawville, IL, milepost OOH-445.7, including the Mt. Vernon Branch between milepost OZJ-300 and milepost OZJ-302.8.

4. EVWR is acquiring and operating about 124.5 route miles.

- f. A color map of the rail Line is attached as Exhibit C.
- g. A Certificate of Compliance with the provisions of 49 C.F.R. § 1150.33(g) is attached as Exhibit A.
- h. A caption summary, as required by 49 C.F.R. §1150.34, is attached as Exhibit B.
- i. No environmental documentation is required because there will be no operational changes that would exceed the thresholds established in 49 C.F.R. §1105.7(e)(4) or (5) and there will be no action that would normally require environmental documentation. Hence, this Notice of Exemption does not require environmental documentation under 49 C.F.R. §1105.6(b)(4) and (c)(2)(i).
- j. An historic report is not required because EVWR will operate the Line, will require further Board approval as required to discontinue and abandon any service, and there are no plans to dispose of or alter properties subject to Board jurisdiction that are 50 years old or older. Hence, this Notice of Exemption does not require an historic report under 49 C.F.R. §1105.8(b)(1).

This action will not significantly affect either the quality of the human environment or energy conservation.

Respectfully submitted,



J. Thomas Garrett
Executive Vice President and General Counsel
Evansville Western Railway, Inc.
The Nemours Building
Suite 1414
1007 Orange Street
Wilmington, DE 19801
Phone: (270) 444-4430
Facsimile: (270) 444-4388

William A. Mullins
David C. Reeves
Baker & Miller PLLC
2401 Pennsylvania Avenue, NW
Suite 300
Washington, DC 20037
Phone: (202) 663-7820
Facsimile: (202) 663-7849

Attorneys for Evansville Western
Railway, Inc.

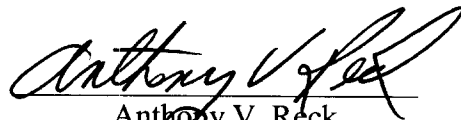
Dated: August 3, 2005

EXHIBIT A

CERTIFICATION

District of Columbia)
) ss:
City of Washington)

I, Anthony V. Reck, being duly sworn depose and state that I am President of Evansville Western Railway, Inc., and that the projected annual revenues from the rail operations would not exceed those that would make it a Class III carrier under 49 CFR Part 1201(1-1).


Anthony V. Reck

Subscribed and sworn to before me this 27th day of July, 2005.


Notary Public

(SEAL)


My Commission Expires: _____

LOLA M. SHANNON
Notary Public, District of Columbia
My Commission Expires
Feb. 14, 2010

VERIFICATION

District of Columbia)
) ss:
City of Washington)

I, Anthony V. Reck, being duly sworn depose and state that I am President of Evansville Western Railway, Inc., that I am authorized to make this verification, and that I have read the foregoing notice of exemption and know the facts asserted therein are true and accurate as stated to the best of my knowledge, information, and belief.


Anthony V. Reck

Subscribed and sworn to before me this 27th day of July, 2005.


Notary Public

LOLA M. SHANNON
Notary Public, District of Columbia
My Commission Expires
Feb. 14, 2010

EXHIBIT B – CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

Notice of Exemption

Finance Docket No. 34738 (Sub-No. 1)

EVANSVILLE WESTERN RAILWAY, INC.
—ACQUISITION AND OPERATION EXEMPTION—
PADUCAH & LOUISVILLE RAILWAY, INC.

Evansville Western Railway, Inc. ("EVWR") has filed a notice of exemption to operate and acquire, by purchase of track, ties and other materials and by taking assignment of a lease in the real property underlying the right-of-way, the following rail line owned by the Paducah & Louisville Railway, Inc. ("PAL"): between Evansville, IN, milepost OOH-324.0, and Okawville, IL, milepost OOH-445.7, including the Mt. Vernon Branch between milepost OZJ-300 and milepost OZJ-302.8, a total distance of approximately 124.5 miles.

The transaction is scheduled to take place on or after December 30, 2005.

A class exemption for PAL and its non-carrier parent to continue in control of EVWR, was concurrently filed in Finance Docket No. 34738 (Sub-No. 2), *Four Rivers Transportation, Inc. and Paducah & Louisville Railway, Inc.—Continuance in Control Exemption—Evansville Western Railway, Inc.*. An application for PAL to purchase the track, ties, and other track material and to lease the real property from CSX Transportation, Inc., was concurrently filed in Finance Docket No. 34738, *Paducah & Louisville Railway, Inc.—Acquisition—CSX Transportation, Inc.*

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34738 (Sub-No. 1), must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on J. Thomas Garrett, Executive Vice President and General Counsel, Evansville Western Railway, Inc., The Nemours Building, Suite 1414, 1007 Orange Street, Wilmington, DE 19801, (270) 444-4430, and William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Avenue, N.W., Suite 300, Washington, DC 20037, (202) 663-7820.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: ____ __, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary

EXHIBIT C-MAP

